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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,977	03/25/2004	Jian Qin	15105.1	9633
23556	7590	09/08/2005		
KIMBERLY-CLARK WORLDWIDE, INC. 401 NORTH LAKE STREET NEENAH, WI 54956			EXAMINER STEPHENS, JACQUELINE F	
			ART UNIT	PAPER NUMBER
			3761	
DATE MAILED: 09/08/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/810,977

Applicant(s)

QIN ET AL.

Examiner

Jacqueline F. Stephens

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 25, 26, 35, and 38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 26, 35, and 38 recite the limitation "a reduction in the surface tension of saline" in line 2; and claim 26 recites "a floating time" in line 2. There is insufficient antecedent basis for these limitations in the claims, additionally applicant has not defined saline with respect to a test procedure.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 22-24, 27, 29-32, 34, and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Bashaw et al. USPN 3989586.

Regarding the preamble of the independent claims 22, 34, and 37 the phrase "a permanently wettable superabsorbent material made by the method comprising is directed to a method of making the article. "Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the

Art Unit: 3761

product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.” In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985) (citations omitted). MPEP 2113. The claims will be treated for the structural limitations claimed or implied by the recited processes.

As to claims 22, 24, 34, and 37, Bashaw discloses a permanently wettable superabsorbent material and method of making the absorbent comprising: treating the superabsorbent material with a surfactant solution (col. 2, lines 9-11); wherein the surfactant has at least one first functional group reactive (reactive solvent) with a second functional group of the superabsorbent material (col. 3, lines 49-60) and at least one non-reactive and hydrophilic functional group (col. 4, lines 35-68). Bashaw discloses the crosslinked copolymer is further activated with methanol, dried and processed in fiber form (col. 4, lines 1-21). The surfactant solution includes an amount of water sufficient to solvate the surface of the superabsorbent material but less than sufficient to cause significant swelling of the superabsorbent material (col. 4, lines 1-5).

As to claim 23, Bawash discloses the superabsorbent material is a fibrous form (col. 2, lines 6-45).

As to claim 27, see col. 2, lines 6-8.

As to claim 29, see col. 4, lines 35-68.

As to claim 30, see col. 3, lines 57-59 and col. 4, lines 21-29.

As to claim 31, see Example 1.

As to claim 32, Bashaw discloses the surfactant is applied to the superabsorbent material when the superabsorbent material is in powder form, which the examiner interprets to be in a solvated state, as the copolymer is solubized in the solvent to form the powdered copolymer (col. 5, lines 23-27).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

Art Unit: 3761

were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 28, 33, 36, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bashaw in view of Paul et al. USPN 6217890.

As to claim 28, Bashaw discloses the present invention substantially as claimed. However, Bashaw does not disclose the claimed group of materials. Paul discloses high absorbency materials in the claimed group as a natural alternative to synthetic high absorbency materials (col. 25, lines 25-40). Therefore, because the natural materials as disclosed in Paul are art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute the natural materials for the synthetic material, such as maleic anhydride disclosed in the Bashaw reference.

As to claims 33, 36, and 39 Bashaw discloses the paper product is highly absorbent (col. 7, lines 18-20). However, Bashaw does not specifically disclose the fiber in a disposable absorbent product as claimed. Paul discloses a similar treated superabsorbent material for use in a diaper comprising a liquid-permeable topsheet 22, a backsheet 20 attached to the topsheet, and an absorbent structure 24 made with a treated superabsorbent fiber positioned between the topsheet and the backsheet for the


Art Unit: 3761

benefit of having highly absorbent material in a relatively thin absorbent article (Paul col. 24, line 52 through col. 25, line 52). It would have been obvious to one having ordinary skill in the art at the time of the invention to incorporate the invention of Bashaw into a disposable absorbent article as claimed, since the invention of Bashaw provides a highly absorbent article, which both reference teach is desired.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F. Stephens whose telephone number is (571) 272-4937. The examiner can normally be reached on Monday-Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jacqueline F Stephens  
Examiner  
Art Unit 3761

August 30, 2005